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16 *Attorneys for Defendants and Counter-*
claimants FRESENIUS MEDICAL CARE
HOLDINGS, INC. AND FRESENIUS USA,
INC.

17
18 **UNITED STATES DISTRICT COURT**
19 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 BAXTER HEALTHCARE
22 CORPORATION and DEKA PRODUCTS
LIMITED PARTNERSHIP,

23 *Plaintiffs and Counter-defendants,*

24 *vs.*

25 FRESENIUS MEDICAL CARE
26 HOLDINGS, INC., d/b/a FRESENIUS
MEDICAL CARE NORTH AMERICA,
and FRESENIUS USA, INC.,
27

Defendants and Counter-claimants.

Case No. C 07-01359 PJH (JL)

**STIPULATION AND [PROPOSED]
ORDER PERMITTING SUBSTITUTION
OF EXHIBIT 1 TO PLAINTIFFS' MOTION
FOR LEAVE TO FILE FIRST AMENDED
COMPLAINT AND TO ADD RELATED
PARTIES (DKT. # 96)**

1 WHEREAS, on August 31, 2007, Baxter Healthcare Corporation and DEKA Products
2 Limited Partnership (“Plaintiffs”) filed Plaintiffs’ Motion for Leave to File First Amended
3 Complaint and to Add Related Parties (Dkt. # 96) and included attached thereto Exhibit 1,
4 entitled “First Amended Complaint”;

5 WHEREAS, Plaintiffs now wish to change the First Amended Complaint, previously
6 submitted as Exhibit 1 to Dkt. # 96, to now include claims of contributory infringement pursuant
7 to 35 U.S.C. § 271(c), for each of the patents asserted therein;

8 WHEREAS, the changes to Plaintiffs’ First Amended Complaint are reflected in Exhibit
9 1, attached hereto and also entitled “First Amended Complaint”;

10 WHEREAS, this requested substitution of Exhibit 1 does not affect the Supplemental
11 Joint Case Management Statement (Dkt. # 109) filed October 12, 2007, or the schedules
12 proposed therein;

13 NOW, THEREFORE, it is hereby stipulated and agreed by the respective parties and
14 their counsel of record:

15 Exhibit 1 attached hereto shall be substituted for, and replace Exhibit 1 to Plaintiffs’
16 Motion for Leave to File First Amended Complaint and to Add Related Parties (Dkt. # 96); and

17 Fresenius Medical Care Holdings, Inc., and Fresenius USA, Inc., (“Defendants”) do not
18 waive their right to deny or move to dismiss the any claims, including the newly added claims of
19 contributory infringement pursuant to 35 U.S.C. § 271(c), in Exhibit 1 attached hereto.

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	By: <u>/s/ Jared E. Hedman</u>	By: <u>/s/ Michael M. Rosen</u>
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	<i>Attorneys For Plaintiff and Counter-defendant</i> BAXTER HEALTHCARE CORPORATION	Limin Zheng (SBN 226875) FISH & RICHARDSON P.C.
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	Howard A. Slavitt (SBN 172840) Rachel G. Cohen (SBN 218929) COBLENTZ, PATCH, DUFFY & BASS LLP One Ferry Building, Suite 200 San Francisco, California 94111-4213 Telephone: (415) 391-4800 Facsimile: (415) 989-1663	<i>claimants FRESENIUS MEDICAL CARE HOLDINGS, INC. AND FRESENIUS USA, INC.</i>
	<i>Attorneys for Plaintiff and Counter-defendant</i> DEKA PRODUCTS LIMITED PARTNERSHIP	

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED, Exhibit 1 attached hereto shall replace Exhibit 1 of Plaintiffs' Motion for Leave to File First Amended Complaint and to Add Related Parties (Dkt. # 96).

DATED: October 18 , 2007



ELECTRONIC FILING DECLARATION OF JARED E. HEDMAN

I, Jared E. Hedman, declare as follows:

1. I am an attorney at Kirkland & Ellis LLP, and I am Baxter Healthcare Corporation's legal counsel in the above-captioned litigation.

2. Pursuant to the Northern District of California Electronic Filing Procedures and General Order No. 45, I attest that Michael M. Rosen, counsel for Defendants, Fresenius Medical Care Holdings, Inc., d/b/a Fresenius Medical Care North America, and Fresenius USA, Inc., (collectively “Fresenius”), and Maureen K. Toohey, counsel for Plaintiff DEKA Products Limited Partnership, concur in the filing of this document and have granted me permission to electronically file this document absent their actual signatures.

Dated: October 12, 2007

Respectfully submitted,

Kirkland & Ellis LLP

By: /s Jared E. Hedman s/
Jared E. Hedman (*pro hac vice*),
jhedman@kirkland.com

Attorney for Plaintiff and Counter-defendant
BAXTER HEALTHCARE CORPORATION